

Court of Appeals, State of Michigan

ORDER

People of MI v Oscar Edward Gulley

Docket No. 276266

LC No. 74-000164; 74-000219

Richard A. Bandstra
Presiding Judge

Joel P. Hoekstra

Michael R. Smolenski
Judges

The Court orders that the prosecutor's motion for clarification of jurisdiction or, in the alternative, dismissal, is GRANTED, and the appeal is DISMISSED FOR LACK OF JURISDICTION. Defects in a court's subject matter jurisdiction may be raised or acknowledged at any time. See *People v Richards*, 205 Mich App 438, 444; 517 NW2d 823 (1994). In this case, appellant failed to file his delayed application for leave to appeal within the time period required by MCR 7.205(F)(3). Further, defendant's assertion that the application should be deemed timely because the untimely filing was due to the ineffective assistance of counsel is without merit. Defendant cannot claim constitutionally ineffective assistance of counsel by counsel's failure to timely file an application for leave to appeal from the denial of a motion for relief from judgment. *People v Walters*, 463 Mich 717; 624 NW2d 922 (2001).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 2 2007

Date

Sandra Schultz Mengel
Chief Clerk